

C O N F I D E N T I A L

404

1 STATE OF MINNESOTA DISTRICT COURT

2 COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT

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4 The State of Minnesota,

5 by Hubert H. Humphrey, III,

6 its attorney general,

7 and Blue Cross and Blue Shield

8 of Minnesota,

9 Plaintiffs,

10 vs. File No. Cl-94-8565

11 Philip Morris Incorporated, R.J.

12 Reynolds Tobacco Company, Brown

13 & Williamson Tobacco Corporation,

14 B.A.T. Industries P.L.C., Lorillard

15 Tobacco Company, The American

16 Tobacco Company, Liggett Group, Inc.,

17 The Council for Tobacco Research-U.S.A.,

18 Inc., and The Tobacco Institute, Inc.,

19 Defendants.

20 - - - - -

21 DEPOSITION OF CLAUDE E. TEAGUE, JR.

22 Volume IV, Pages 404 - 481

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1 (The following is the Deposition of CLAUDE
2 E. TEAGUE, JR., taken pursuant to Notice of Taking
3 Deposition, by videotape, at the offices of Womble
4 Carlyle Sandridge & Rice, Attorneys at Law, 200 West
5 Second Street, Winston-Salem, North Carolina, on July
6 11, 1997, commencing at approximately 12:31 o'clock
7 p.m.)

8

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11		5, 1970, 501079000-9001	
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13		a New type of Cigarette	
14		Delivering a Satisfying Amount	
15		of Nicotine with a Reduced	
16		"Tar"-to-Nicotine Ratio,	
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1 P R O C E E D I N G S

2 (Witness previously sworn.)

3 CLAUDE E. TEAGUE, JR.

4 called as a witness, being previously sworn,

5 was examined and testified as follows:

6 ADVERSE EXAMINATION

7 BY MR. O'FALLON:

8 Q. Good afternoon, Dr. Teague.

9 A. Good afternoon, sir.

10 Q. I'd like to just clear up a few issues in the
11 record from previous questioning I've done. When we
12 first started the deposition, we talked a little bit
13 about the conversations you had with your attorneys
14 in preparation for this deposition, and I think you
15 said there were about a half dozen of those
16 conversations; correct?

17 A. Best I remember, I think that's right.

18 Q. Have you talked with R.J. Reynolds or any
19 attorneys that represent R.J. Reynolds prior to the
20 time that you met with Mr. Davis and other attorneys
21 to prepare for your deposition?

22 A. Back when I worked for Reynolds, back in the
23 early '80s, I think there were some law -- individual
24 suits pending as far as -- I was never called, but I
25 think I spent a little time with them then.

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1 Q. During the time you were in the research and
2 development department from -- or research department
3 from 1950s through 1975, did you ever do work at the
4 direction of attorneys?

5 A. Excuse -- Can you define "work" a little more
6 closely?

7 Q. Well, anything you did in your job.

8 A. Laboratory work or --

9 Q. Any of it. Did you ever have any of your work
10 that was directed by your attorneys during that time
11 period?

12 A. Not directed by, but I may have requested
13 something through somewhere and it got to me, but I'm
14 not quite sure what you mean but --

15 Q. Did you ever do any memorandums specifically for
16 attorneys when you were in research?

17 A. I vaguely remember doing some or contributing to
18 some or something, but I couldn't tell you.

19 Q. What were the topics of those memos?

20 A. I was just going to say, I'm sorry, I couldn't
21 tell you what the topics were, who the attorneys
22 were.

23 Q. When you were still doing bench research, did
24 you make it a practice to copy your memorandum or
25 other documents from your bench research to

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1 attorneys?

2 A. No, not that I can ever remember.

3 Q. And as far as you can recall, you don't recall
4 doing specific bench research at the direction of or
5 request of attorneys; correct?

6 A. Oh, no. I sure don't. Don't remember that if
7 there was such a thing.

8 Q. Since your retirement, up until the present
9 time, excluding the half-dozen times we have talked
10 about where you were preparing for this deposition,
11 have you had the opportunity to meet with R.J.
12 Reynolds' attorneys or -- either inside or outside
13 attorneys?

14 A. I think I've had the opportunity and have
15 declined in most cases. I think I've talked to them
16 once or twice back -- oh, gosh, I think I called them
17 or the public relations people or something I think
18 when all this latest -- I guess when some of my
19 documents got on the Internet or whatever and I
20 started getting phone calls from TV networks,
21 magazines, newspapers, had some people come to my
22 door and want to talk and --

23 Q. When was that?

24 A. I'd say within the last two or three years.

25 Q. What attorneys do you recall talking with either

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1 at R.J. Reynolds or their outside counsel?

2 A. I remember the PR, Peggy Carter, but I --

3 Q. You have testified previously that you talked

4 with Peggy Carter and Dave Fishel. Now, neither one

5 of those people are attorneys; right?

6 A. I -- Well, I don't think so but I'm -- I'm not

7 sure they're not.

8 Q. And I'm going to come back and ask you about

9 those conversations. But other than those two

10 people, did you have any conversations with anybody

11 else at R.J. Reynolds or outside counsel?

12 A. I'm trying to remember. I -- Well back to -- I

13 think Peggy Carter came to my home and talked to me

14 sometime and I'm trying to remember, there were

15 people with her. I couldn't tell you exactly whether

16 they were lawyers or not, but there were several

17 people as I recall. I just said --

18 Q. When did Peggy Carter come to your home?

19 A. Basically when all this stuff started when --

20 and I don't know what I mean by "stuff."

21 Q. This litigation, this smoking and health

22 litigation?

23 A. I think it was before the states got into it. I

24 think, but I'm not sure, that the thing that -- the

25 Internet, some of my papers apparently got onto the

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1 Internet. I think somebody stole them or somebody
2 got them and shipped them to somebody in California,
3 was my recollection, and he in turn put them all on
4 there and that's what got people calling me.

5 Q. Did you contact R.J. Reynolds or did R.J.
6 Reynolds contact you about those documents?

7 A. I contacted them. I would contact -- I think I
8 contacted a Reynolds' attorney once whose name was
9 Blixt or something like that but I don't think I've
10 ever met the gentleman. Just called and said, hey,
11 so-and-so called and wanted to interview me, and
12 Peggy I know, and there was another guy, the PR.

13 Q. Fishel?

14 A. Dave Fishel, yeah, and I may have called Mark
15 Holton on that. I'm not sure. He is with Womble
16 Carlyle.

17 Q. Had you worked with Mr. Holton previously?

18 A. I think way back in the -- again in the early
19 '80s, somewhere in that period. Sometime before I
20 retired I had -- I think he was one of the people
21 that I've --

22 Q. When you called R.J. Reynolds and these
23 attorneys, were you seeking advice?

24 A. No. I just wanted to let them know that I was
25 starting to get a bunch of calls and people coming to

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1 the door and this, that and the other, were they
2 aware of it, and I --

3 Q. And as a result of those telephone calls, Peggy
4 Carter and several other people came to your home?

5 MR. McELVEEN: Objection. I think that
6 mischaracterizes his testimony.

7 A. I don't know. I guess there is a relationship
8 there, but I didn't invite her to come to my home.

9 Q. So she decided to come to your home without
10 being invited?

11 A. No, no. She called and I said sure, you're
12 welcome to come. I think what I had called about,
13 and I'm -- I'm searching here, that all these people
14 kept calling and I said, well, I'm retired, what am I
15 supposed to do about it? I just prefer, you know,
16 they -- I haven't worked there in a good while and,
17 you know. And I guess that was probably in response
18 to that is why Peggy came. She called and asked to
19 see if she could see -- talk with me and I said,
20 "Sure, come on."

21 Q. How many people did she show up with?

22 A. I don't know, two or three, I think.

23 Q. How long did they stay?

24 A. Maybe as much as a half an hour. I'm not sure.

25 Q. What did you talk about during that time?

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1 A. About what was -- they were kind of bringing me
2 up to date as to what was going on. I wasn't
3 interested. And Peggy had some suggestions about how
4 to end all this stuff.

5 Q. Well what did Peggy say? What were her
6 suggestions?

7 A. I think she said let her go back and think about
8 it or something or another and she talked about one
9 way to get people to just basically leave me alone.

10 Q. What way was that, sir?

11 A. Was to, best I remember, put out some kind of
12 memo or something to the press or -- that she -- when
13 people called her that she could say, well, here's
14 his position and --

15 Q. Did she offer to help you write that?

16 A. No.

17 Q. Did she suggest ways that you should write it?

18 A. She did later, I think, either that -- maybe
19 that one time I think she had a draft of something.

20 Q. So she brought a draft with her, a draft press
21 statement?

22 A. I can't be sure whether she brought a draft or
23 whether she said she would go back and send me one.

24 I --

25 Q. Did she in fact send you such a draft, sir?

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1 A. I got a draft. Whether she sent it or whether
2 she left it, I -- I just don't remember. It wasn't a
3 big deal to me.

4 Q. So you had a draft of a document that she wrote?

5 A. When?

6 Q. You eventually got a draft of a document she
7 wrote?

8 A. Uh-huh, uh-huh.

9 Q. And is that one of the documents you produced to
10 the Mangini people? Is that one of the documents
11 that were produced by you in this -- in regard to
12 subpoenas issued in this deposition?

13 A. I think it probably is, yes. I went through,
14 found a whole bunch of trivia that -- in my files.

15 MR. O'FALLON: Why don't we go off the
16 record for a second.

17 THE REPORTER: Off the record.

18 (Recess taken from 12:43 to 12:44 p.m.)

19 BY MR. O'FALLON:

20 Q. Dr. Teague, you've testified that Peggy Carter
21 or someone at RJR drafted up a response and gave it
22 to you; correct?

23 A. I think it was a proposed response to the press
24 or inquires or something.

25 Q. And this was a document that they drafted before

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1 they talked to you?

2 A. Well, I think I just said we talked -- You mean
3 when Peggy and friends came out to my house?

4 Q. Yeah. Did they bring that draft with you --
5 with them at that time?

6 A. I think I just testified that she may have or
7 she -- we may have talked, she may have gone back and
8 somebody mailed it to me.

9 Q. Did R.J. Reynolds ever release that draft
10 response?

11 A. As far as I know, no.

12 Q. Did you ever release that draft response?

13 A. No.

14 Q. Now did Ms. Carter suggest to you what should be
15 in that draft response or did she just take
16 responsibility for drafting it in the first place?

17 MR. DAVIS: Objection.

18 A. I don't really remember, sir.

19 Q. And that draft response involved in part
20 documents that we have looked at here in this --
21 That draft response involved, in part, documents
22 that we have reviewed in this deposition; correct?

23 A. I don't know. I don't think it -- I'd be glad
24 to read it, but I don't think it mentioned any
25 specific documents.

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1 Q. You don't think it mentioned any specific
2 documents?

3 A. I don't know. I say, if you want me to read it
4 I can probably tell you, but my guess is it did not.

5 Q. Was there just a general discussion when Ms.
6 Carter and these other people came out to your house
7 to discuss how best you could spin this document so
8 it wouldn't look bad?

9 MR. DAVIS: Objection.

10 MR. McELVEEN: Objection.

11 A. No.

12 Q. No?

13 A. No. No.

14 Q. Why do you think the press was so interested in
15 that document?

16 A. What document?

17 Q. Your documents -- Well your documents, why do
18 you think the press was so interested in them?

19 A. I can't --

20 Q. Just don't know?

21 A. Kind of baffled me, too. I mean, I didn't think
22 -- I think -- I felt if they had known the documents
23 in context probably they wouldn't have been
24 interested, but who knows?

25 Q. And that's certainly what Peggy Carter wanted to

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1 do, come out and create a little context for the
2 documents; correct?

3 MR. McELVEEN: Objection.

4 A. I don't know what Peggy Carter wanted to do.

5 Q. She suggested ways she could create a context
6 for those documents, didn't she, sir?

7 MR. McELVEEN: Objection.

8 A. I'm not sure I understand the "context" for the
9 documents. Like what?

10 Q. She came out and suggested to you a way to
11 create a context for these documents; correct?

12 A. I'm not --

13 MR. McELVEEN: Objection. Excuse me, Dr.

14 Teague.

15 Objection, I think that misstates his testimony.

16 A. I'm not sure what you mean by "context." Create
17 a context?

18 Q. Well, for instance, Peggy Carter --

19 A. Use simple language, please, sir.

20 Q. Well let me give you an example. Peggy Carter
21 put out a press release regarding documents that were
22 produced in the state of Minnesota and tried to
23 explain those documents before we ever had a chance
24 to see them. Did she try to do the same thing with
25 yours?

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1 MR. McELVEEN: Objection.

2 MR. DAVIS: Objection.

3 A. I don't even know what you are talking about.

4 Q. Peggy Carter is a public relations person;
5 correct?

6 A. I believe so.

7 Q. It's her job to try to cast R.J. Reynolds
8 Tobacco Company in the best light possible; correct?

9 A. I don't know what her -- She is a public
10 relations person.

11 Q. That's what public relations people do, isn't
12 it?

13 MR. McELVEEN: Objection.

14 MR. DAVIS: Objection.

15 A. I'm not expert on that.

16 Q. You have heard the word "spin doctor" before;
17 haven't you?

18 A. Lately, yes.

19 Q. That's really what Peggy Carter is for R.J.
20 Reynolds, isn't she, she is a spin doctor?

21 MR. McELVEEN: Objection.

22 MR. DAVIS: Objection.

23 A. I don't think so.

24 Q. You don't think so?

25 A. No.

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1 Q. And that's what she tried to help you do, put a
2 spin on the documents of yours that were apparently
3 in the press; correct?

4 MR. McELVEEN: Objection.

5 MR. DAVIS: Objection.

6 A. I don't think so. I -- I have said, hey, I'm
7 retired, people are beginning to annoy me, call me,
8 people come to my door and want to talk and all and,
9 you know, I don't understand why. Can you guys, you
10 know -- I'm referring them to you and, you know, you
11 can -- I just said, you know, I don't have a dog in
12 this fight, I'm not really -- I'm not interested in
13 this. I've got better things to do with my time.

14 Q. But rather than release a press statement on
15 those documents yourself, she tried to give you one;
16 correct?

17 MR. DAVIS: Objection.

18 A. I don't know.

19 Q. Well she gave you a draft press release; right?

20 A. She could have --

21 THE WITNESS: Excuse me. I'm trying not to
22 talk when he is talking.

23 A. I don't know whether she ever released a
24 document on -- I'm not familiar with her releases.
25 I've -- but I didn't know her. I called I think Dave

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1 Fishel's office and they said, Dave, who I had known,
2 that he is not available, and they referred me to
3 Peggy Carter.

4 Q. So you never did talk to Dave Fishel?

5 A. On this matter? I -- I think sometimes when I
6 got called I would call Dave Fishel's office or I
7 think a time or two I talked to Dave himself. I knew
8 Dave.

9 Q. I'm sorry. At what time periods? I'm talking
10 about after you left R.J. Reynolds. Did you ever
11 talk to Dave Fishel after you left R.J. Reynolds?

12 A. On the phone, I just said.

13 Q. Okay. A couple of times?

14 A. Probably.

15 Q. Okay. What other issues would you have talked
16 to Dave Fishel about other than this issue of your
17 documents being out in the public?

18 A. Well like I said, when people called me I would
19 usually try to get somebody at Reynolds and say, hey,
20 somebody's calling and wanting to interview me or
21 wanting a statement for whatever and I said, you
22 know, so you guys know, I hope you folks will take
23 care of these things because I'm retired.

24 Q. And so you had how many conversations would you
25 estimate with David Fishel after 1988?

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1 A. I think I -- I remember one. It was -- had
2 respect to somebody calling, he said -- I said I
3 referred him to you or your office and I think he
4 said, "Yeah, we already know that." That was it. I
5 may have reported or called his office and got
6 referred to Peggy Carter or somebody else.

7 Q. How many total conversations did you have with
8 Peggy Carter?

9 A. I think at the time she came to my house, and I
10 think I had been referred off from Dave Fishel to her
11 on a couple things, and I may have called her
12 directly figuring well, she -- they are part of the
13 same thing. But I -- The only specific one I
14 remember is when they came to my house or she came to
15 my house.

16 There is another time I had a conversation with
17 her in -- I ran into her in the grocery store
18 probably about a year ago. I knew I had seen that
19 lady somewhere and finally she -- I don't know,
20 figured out who it was and said hi and that was about
21 the extent of it.

22 Q. So the last time you had a conversation with
23 Peggy Carter was about a year ago?

24 A. That would be my guess. I may have -- I don't
25 think I -- I just don't know. The two that I

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1 remember are the ones when she came to my house and I
2 -- when I casually ran into her in the grocery store
3 up at the corner and we gibble-gabbled but not about
4 any Reynolds stuff.

5 Q. Had you had any conversations with other people
6 in the public relations department in the last year?

7 A. I don't know if there are any others. But I
8 have -- As far as I can remember, Dave Fishel and
9 Peggy Carter are the two that i normally contact.

10 Q. Have we now covered all the contacts you had
11 with either RJR or their attorneys since 1988?

12 A. I don't know. Have we?

13 Q. I'm asking you, sir.

14 A. I don't know.

15 Q. Well, what --

16 A. I may have forgot.

17 Q. -- about any other contacts you have had.

18 A. Well, we talked about the ones with the PR
19 people; right?

20 Q. Right.

21 A. You are saying now what, since --

22 Q. 1988, since you officially retired.

23 A. The PR people, I talked to somebody. I think I
24 told you I had been in the lab twice since I
25 retired.

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1 Q. Right.

2 A. And I talked to somebody in the little -- the
3 RJR R&D had a -- there was a, what do you call them,
4 paralegal, somebody there, and I believe there was a
5 lawyer there off and on and maybe -- I think at one
6 time there may have been two. So what else?

7 Q. Anything else?

8 A. I -- Those are the two. I've talked to anybody
9 at Reynolds? Whoa. Now let's back up, make sure we
10 are on the --

11 Define what you mean by "contacts," I guess.

12 Q. Conversations with.

13 A. With people who worked at Reynolds?

14 Q. Right, other than purely social, anything that
15 would relate at all to Reynolds' business or your
16 role in Reynold's business or your documents or
17 anything like that.

18 A. I don't think of any -- I basically am not in
19 touch with people there.

20 Q. Since 1988, have you had any contacts with any
21 of the Womble Carlyle or Jones Day attorneys other
22 than the ones we have spoken about?

23 A. Yeah, I have, I think.

24 Q. What are those? What were those contacts?

25 A. I'm trying to think. I think I knew Mark Holton

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1 some -- from some of the earlier things back in the
2 early '80s when I still worked at Reynolds when they
3 were preparing for some law cases, which I never -- I
4 mean I never gave a deposition so I don't know, and I
5 think maybe there was a time or two when I couldn't
6 get anybody in PR or law at Reynolds when I called
7 Mark but I -- you know.

8 Q. Did Mark have any advice for you about those
9 documents?

10 A. What documents?

11 Q. Well you said you called Reynolds' PR department
12 because of these documents and because you were being
13 bothered by the press. Did Mark have any advice for
14 you concerning that?

15 A. I think he said, well, he'd relay that to
16 somebody at Reynolds or if he was -- I don't think he
17 gave me any personal advice on what to do or not to
18 do because -- I don't think I had -- I wasn't seeing
19 the documents. They were just calling up and I knew
20 they were on the Internet, or some of them were.

21 Q. And you downloaded them from the Internet;
22 right?

23 A. No, I didn't download them. I looked at them on
24 the monitor, I think. If by "downloading" you mean
25 either putting them in the memory storage or printing

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1 them, I don't believe I did either one of those
2 things.

3 Q. Have you ever had any contact with any attorneys
4 from Shook, Hardy & Bacon?

5 A. Excuse me, from who?

6 Q. Shook, Hardy & Bacon.

7 A. Are they -- I don't think I ever heard of them.

8 Q. How about Jacob Medinger?

9 A. Not that I know of. Are they local? No, I
10 don't guess they could be.

11 Q. Have you been contacted by any R.J. Reynolds'
12 attorneys or outside counsel to give an affidavit
13 concerning your documents?

14 A. An affidavit. I don't think -- As far as I know
15 I haven't, but I just don't know. I don't know quite
16 what you mean, I guess.

17 Q. Has anybody contacted you about submitting an
18 affidavit in any court case that would concern your
19 documents?

20 A. I sure don't remember. I don't think so, but I
21 -- you know.

22 Q. Have we now talked about all of the
23 conversations you have had with either RJR Reynolds'
24 employees or attorneys for RJR Reynolds since 1988?

25 A. Have we "talked about"?

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1 Q. Yes.

2 A. I think we talked about a bunch of them, haven't
3 we?

4 Q. Have you talked about all of them, sir?

5 A. I can't say all of them because --

6 Q. Have we talked about all of them to the best of
7 your recollection as you sit here today?

8 A. Have I talked to any of them?

9 Q. Sir, have we, have you and I now discussed all
10 of the contacts you have had with R.J. Reynolds'
11 employees or attorneys representing R.J. Reynolds
12 since 1988?

13 A. No.

14 Q. Okay. What other ones have we not talked about?
15 A. I think some of the discussions with my
16 attorney. I believe there have been some -- some
17 lawyer types there. I'm --

18 Q. That's those six conversations we talked about
19 earlier; right? We talked about the first day of
20 this deposition.

21 A. I think some of those were just with my
22 attorney, with Mr. Davis, and some of them there were
23 other people there and I couldn't tell you who. I
24 don't know. I'm not good at names and --

25 Q. Okay. Including those discussions in with the

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1 ones we have talked about, have we now discussed,
2 have you now disclosed to me all the contacts you had
3 with R.J. Reynolds' employees or their attorneys
4 since 1988?

5 A. Having to do with this smoking and health.

6 Q. Having to do with anything, sir.

7 A. Well, I say, I've -- I've run into R.J. Reynolds
8 employees socially.

9 Q. Excluding chance social meetings.

10 A. Okay. I don't -- That's all I can remember.

11 Q. Other than the pension benefits we have talked
12 about, have you received any payments from R.J.
13 Reynolds or anybody associated with R.J. Reynolds,
14 including their attorneys, since 1988?

15 A. I think there were some things that came to me
16 after I officially retired. I believe there was some
17 things any employee would get on retirement, some
18 profit-sharing money, some 401(k) money, some like a
19 little IRA money. I think there was -- there was a
20 stock bonus plan, some of those things. They are
21 very routine things. I don't -- I would guess I had
22 all of that by the end of -- you said -- by the end
23 of '88, since I retired officially March the 1st but,
24 you know, there were things they had to calculate and
25 process and --

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1 Q. Have you received any other payments from RJR,
2 such as payments for preparation for this deposition
3 or payments for your time when Peggy Carter came to
4 see you, anything like that?

5 A. From Reynolds?

6 Q. Or anybody associated with Reynolds, including
7 attorneys.

8 A. Well, I received money from you for testimony
9 here and from some of these people.

10 Q. Excluding that. I'm talking about Reynolds or
11 people associated with Reynolds.

12 A. No. I'm pro bono. In fact, I believe I have
13 specifically stated to anybody that I was not
14 interested in it.

15 Q. Do you currently own R.J. Reynolds' stock?

16 A. No, sir.

17 Q. Do you own any R.J. Reynolds' stock options?

18 A. No, sir.

19 MR. O'FALLON: Let's take a two-minute
20 break, if I could.

21 THE REPORTER: Off the record.

22 (Recess taken from 1:04 to 1:10 p.m.)

23 BY MR. O'FALLON:

24 Q. Dr. Teague, I just want to make sure I've
25 covered everything. At one point I think you said

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1 you assigned some life insurance benefits of yours to
2 another member of your family for estate planning
3 purposes.

4 A. Yes, sir.

5 Q. Have you done that with any stock or stock
6 option for RJR?

7 A. No.

8 MR. O'FALLON: I have no further
9 questions.

10 MR. McELVEEN: I have a few.

11 THE REPORTER: Off the record.

12 (Recess taken from 1:11 to 1:14 p.m.)

13 DIRECT EXAMINATION

14 BY MR. McELVEEN:

15 Q. Dr. Teague, my name is J. C. McElveen and I
16 represent the R.J. Reynolds Tobacco Company in this
17 deposition. I have a few questions for you, if I
18 may.

19 Some of these are going to make reference to
20 some documents which you have already looked at
21 during the course of your examination by Mr. O'Fallon
22 and so we may be sort of riffling through the papers
23 there periodically, and I apologize for that for
24 you.

25 But I want to ask you first of all sort of a

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1 preliminary question, and that is: During the course
2 of your discussions with Mr. O'Fallon you have
3 discussed ammoniation and a variety of documents that
4 discussed ammonia in tobacco and in smoke.

5 A. Uh-huh.

6 Q. One of the comments I believe you made in
7 response to one of Mr. O'Fallon's questions was that
8 pH is a concept that's ordinarily utilized with
9 aqueous systems, and I'd just like to ask what you
10 mean by that. Explain that.

11 MR. O'FALLON: Objection to the precursors
12 up to that. It's leading.

13 A. "Aqueous" means water or from aqua pura in
14 Latin.

15 Q. Okay.

16 A. And pH measurements, I think by definition, are
17 in aqueous solutions and when you go much beyond that
18 then you are kind of -- you're not in pure pH, I
19 would think.

20 Q. Okay. What is "pH," just as a scientific
21 definitional matter?

22 A. Best I remember, it's a logarithmic function, I
23 think, but it's been a long time. I think it's the
24 log to the base E, or I guess natural logarithm of
25 the reciprocal of the concentration of hydrogen-ion

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1 in aqueous solution, and I think it's probably
2 expressed in moles per liter but it could be in some
3 other --

4 Q. All right, sir. Let me ask if we could pull for
5 just a moment Exhibit No. 1093. Let me just look
6 through here very briefly for that, if I may. I'm
7 going to hand that across the table to you, Dr.

8 Teague.

9 A. 1093.

10 Q. This is a document entitled "DRAFT 8/9/82" and
11 entitled "AMMONIA."

12 A. Uh-huh.

13 Q. And just for completeness sake, would you take a
14 look at the last page of that document?

15 A. Yes, sir.

16 Q. Is that signed in any way that you can tell?

17 A. No, sir. Signed or dated. No. Draft, it's a
18 draft. Excuse me.

19 Q. Of 8/9/82. That's on page 1.

20 A. I swear this says --

21 Q. I'm sorry, 8/9/82?

22 A. -- 6/9/92, but I think we did agree that it was
23 probably '82.

24 Q. All right, sir. Let me direct your attention to
25 the third page of that document.

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1 A. Uh-huh.

2 Q. There are a number of observations and
3 conclusions that this document purports to give
4 starting on the previous page, but I want to direct
5 your attention to item number 7.

6 A. Am I on -- I don't think --

7 Q. I'm sorry, I'm sorry. You're right. That
8 should be to the fourth page of the document, fourth
9 page of the document, item number (7).

10 A. Okay, all right.

11 Q. Says, "Studies of the effect of ammonia on smoke
12 composition showed a reduction in aldehydes,
13 especially formaldehyde, and an increase in the
14 levels of pyridines, pyrazines" --

15 A. Pyrazines.

16 Q. -- "pyrazines and other minor alkaloids.

17 Smoking panel results showed a decrease in smoke
18 irritation and harshness and an increase in
19 physiological satisfaction with increasing ammonia
20 content."

21 First of all, doctor, could you tell me what
22 pyridines and pyrazines are?

23 A. They are broadly heterocyclic nitrogen
24 compounds.

25 Q. Okay. Do they exhibit anything to smoke, to

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1 your knowledge?

2 A. I really don't know.

3 Q. Okay. The notation further there is that

4 "Smoking panel results showed a decrease in smoke
5 irritation and harshness with increasing ammonia
6 content." What -- What does that mean to you?

7 A. I think it's an error. As you increase ammonia
8 content, you do decrease smoke irritation. But you
9 don't decrease harshness, you increase it. So this
10 whole statement to my recollection is half right or
11 half wrong. Harshness, well, it's defined, I don't
12 know whether you've smoked a cigar or strong burley,
13 if you try to inhale it it just grabs your throat.

14 Q. In discussing the use of pH as a concept that
15 was originally developed for aqueous solutions, is pH
16 harder to measure in nonaqueous media?

17 MR. O'FALLON: Objection, leading.

18 MR. McELVEEN: You may answer.

19 A. It -- I'm not sure. You know, the -- pure pH I
20 think can only be measured in aqueous solutions, so
21 if you are into something else, you can measure
22 something but I'm not quite sure what it would be.
23 It may be -- It may be a number that's useful to you,
24 it may not. I think it's wrong to call it pH, but
25 people do.

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1 Q. In the documents you were discussing with Mr.
2 O'Fallon with respect to pH, what was the pH being
3 measured in in those studies, what medium?

4 A. Been a long time. I think the smoke was
5 impinged on a glass so-called pH electrode and then
6 you have got a reading that -- since it was on a pH
7 meter, I guess you can call it a pH, but I don't
8 think it would -- certainly wouldn't meet the
9 classical definition of pH.

10 Q. But it was smoke as opposed to tobacco leafs or
11 something --

12 MR. O'FALLON: Objection, leading.

13 Q. -- that was being measured?

14 A. I guess people measured tobacco leaf. If they
15 did, they would probably soak it in water and immerse
16 an electrode in that. But in smoke, as far as I
17 know, it was always impinged on a -- on an
18 electrode. It's very difficult to reproduce, as I
19 remember. In fact, I think there was only one guy in
20 the shop that could reproduce the measurements very
21 well.

22 Q. Does that methodology that you described to us
23 have a name? I mean, does the method have a name, I
24 guess is what my question is.

25 A. I don't think -- As far as I know, that was an

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1 internally developed methodology. We just called it
2 "smoke pH measurement." There was another kind
3 where you actually bubble smoke through a liquid and
4 measured that, but I don't think -- I don't think it
5 was much used after this other thing came along.

6 Q. Okay.

7 A. Because you couldn't do that puff by puff, for
8 one thing.

9 Q. Okay. In addition to what we have just read
10 from the document, 1093 --

11 A. Uh-huh.

12 Q. Let me see if I can find the location of another
13 quote.

14 MR. McELVEEN: Can we go off the record one
15 second until I find this?

16 MR. O'FALLON: Can I just ask you a quick
17 question?

18 MR. McELVEEN: Sure.

19 MR. O'FALLON: Is there a reason you are
20 using that one and not the one with the memo attached
21 to it?

22 MR. McELVEEN: I can. I think it's the
23 same document.

24 MR. O'FALLON: The other one does attach to
25 it and basically say who attached it. Doesn't matter

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1 to me. It's your record.

2 MR. McELVEEN: I understand, I understand.

3 And I don't really mind doing either one. We can
4 make that point for the record. Do you remember what
5 document number that was?

6 MR. O'FALLON: I think it's the next one,
7 1094.

8 MR. McELVEEN: 1094? I don't know I have
9 1094 in my set here.

10 THE REPORTER: We are still on the record.

11 MR. McELVEEN: We are still on the record?

12 THE REPORTER: We are.

13 (Discussion off the record.)

14 BY MR. McELVEEN:

15 Q. Dr. Teague, if I may address your attention to
16 document 1094 here?

17 A. Is that this one?

18 Q. Yes.

19 A. All right.

20 Q. That's I believe the same memorandum you have
21 been looking at, 1093, with a cover memo that was
22 signed by E. Bernasek and C. W. Nystrom.

23 A. Okay.

24 Q. On that document, if you could also turn to page
25 4.

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1 A. Two, three, four.

2 Q. Okay. Does that have the three numbered items
3 at the very bottom of the page?

4 A. Yes, sir.

5 Q. Okay. Let me address your attention first of
6 all to item number (2) there: "Ammonia in smoke is
7 one of the major pH controlling components. Others
8 include nicotine, amines, organic acids and carbon
9 dioxide." Do you see that?

10 A. Yes, sir.

11 Q. To your knowledge, are all of those compounds pH
12 controlling components of smoke?

13 MR. O'FALLON: Objection, leading.

14 A. Nicotine means, yes, some would make it more
15 alkaline, some more acidic, I guess.

16 Q. I'm sorry, what was your answer?

17 A. Yes, some of those would make them more
18 alkaline, some would make it more acidic, so it
19 influences pH.

20 Q. Okay. So there are other components in smoke
21 besides ammonia which -- which have a modifying
22 effect on pH?

23 MR. O'FALLON: Objection, leading.

24 A. I believe so.

25 Q. Okay. One of the comments that you made in

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1 responding to some earlier questioning by Mr.
2 O'Fallon was a water and carbon dioxide reaction
3 creating carbonic acid with respect to the ammonia
4 issue that you were discussing earlier. Could you
5 describe for us what that reaction is and how it
6 affects pH, if it does?

7 A. Well, as -- if you bubble or dissolve carbon
8 dioxide in water, I think you would get H₂CO,
9 carbonic acid or something -- anyway, it's a mild
10 acid and of course a mild acid in ammonia is a mild
11 alkaloid or base and I think the two would form a,
12 classically what's known as, a salt.

13 Q. Uh-huh.

14 A. So -- Have I answered your question?

15 Q. Right. Does the --

16 To your knowledge, does the carbonic acid react
17 with ammonia and tobacco to move pH?

18 A. I don't know. I would -- would expect that it
19 would.

20 Q. You mentioned that of these components some
21 might move pH up and some might move it down. Do you
22 know from your knowledge of chemistry which way
23 nicotine moves pH, nicotine level?

24 A. I would guess it would move it up. It's a weak
25 organic base.

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1 Q. What about amines?

2 A. Yeah, I think they -- they would do the same
3 depending on what amine and -- but yes, they are also
4 basic material, alkaline materials.

5 Q. What about organic acids?

6 A. They would go in the other direction, they would
7 move pH down, I believe, depending again on which
8 acid and how much.

9 Q. What about carbon dioxide?

10 A. Right. That's what we said before, carbon
11 dioxide and smoke would be I believe something that
12 would tend to be -- would act like an acid to reduce
13 pH rather than increase it.

14 Q. Would the levels of these various compounds in
15 tobacco have any effect on the level of the pH in the
16 smoke?

17 A. Well, subject to what we said earlier about pH
18 and what it is in smoke, they would be expected to
19 change the number that you are measuring.

20 Q. Okay.

21 A. As pH, or column pH.

22 Q. The third item down there on that page indicates
23 "Ammonia occurs naturally in tobacco ranging from
24 trace amounts in flue-cured tobacco to over 1 percent
25 in high quality cigar tobacco."

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1 To your personal knowledge, does ammonia occur
2 naturally in tobacco?

3 A. I've seen -- Yeah, I believe it does. I
4 couldn't tell you specifically where and how much.

5 Q. Okay. Does it vary by leaf type, do you know?

6 A. Most everything else does so I guess it would,
7 too, leaf type, crop year, leaf position, tobacco
8 variety and what all, you know.

9 Q. Of course.

10 Let me direct your attention briefly to Exhibit
11 No. 1092.

12 A. Okay.

13 Q. It would be this document right here. This is a
14 -- an item that's produced by John D. Woods and Sue
15 H. Sheets of the chemical research division, at least
16 by the information on page 1. Do you know John Woods
17 or Sue Sheets?

18 A. Both, yes.

19 Q. Okay. In the third paragraph on the first page
20 of that memorandum are -- is the information or the
21 statement "Smoke pH data for Marlboro and Kool 85 mm
22 cigarettes indicated that both brands exhibited a
23 significant reduction in smoke pH during 1974," and
24 then it goes on to describe how they arrived at that
25 conclusion.

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1 First of all, Dr. Teague, do you know why
2 Marlboro and Kool cigarette smoke pH went down in
3 1974?

4 MR. O'FALLON: Objection, leading.

5 A. Not really, no.

6 Q. Okay. One of the items that you all discussed
7 in your discussions with Mr. O'Fallon was a document
8 that indicated at least in a particular year or two
9 that there was a correlation, a positive correlation
10 between smoke pH and cigarette sales. Do you
11 remember that discussion at all?

12 A. Yes, I do, I think.

13 Q. Do you -- Okay.

14 Do you know whether in subsequent years to the
15 years that -- or the year or years those calculations
16 were done -- Let me rephrase that question a little
17 bit. I'm making it too complicated.

18 Do you know whether that correlation between
19 smoke pH and cigarette sales held up or continued in
20 subsequent years to the years in which that
21 correlation was measured?

22 MR. O'FALLON: Objection, leading, lack of
23 foundation.

24 Q. Go ahead and answer.

25 A. My recollection is that it moved around some but

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1 that's about as specific as I could be. Oh, wait a
2 minute. Excuse me. I answered -- I was talking
3 about smoke p -- the correlation between that and
4 sales, I have no notion. The sales kept going up,
5 but from what this says, the smoke pH went down
6 so --

7 MR. O'FALLON: Objection, misstates the
8 document.

9 Q. Did you -- Let me ask --

10 A. Okay.

11 Q. -- you a more specific question.

12 A. Uh-huh.

13 Q. Did you keep track of any correlations that
14 might be occurring after your initial -- after the
15 initial calculations had been done, did you keep
16 track yourself of what, if any, the correlation was
17 between pH and sales after --

18 A. I didn't. See, this is January '75 and I was
19 out of there sometime in '75 and --

20 Q. Okay. But -- But -- Right. I understand.

21 My question is: After you left that department
22 and went over to your subsequent work in 1975, did
23 you have any occasion to keep any of those types of
24 calculations, or make them?

25 A. No.

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1 Q. Okay. You were asked a number of questions
2 about a research planning memorandum on some thoughts
3 about new brands of cigarettes for the youth market.
4 Do you remember that area of questioning?

5 A. Yesterday we went into that some, I believe,
6 yes, sir.

7 MR. McELVEEN: Counsel, do you have the
8 number on that document?

9 MR. O'FALLON: You know -- Not right off
10 the top of my head.

11 MR. McELVEEN: Okay.

12 MR. O'FALLON: Sorry about that.

13 MR. McELVEEN: No problem. Let me just
14 take a quick look for it. I have a copy and I'll
15 just, I think, for completeness sake, just hand my
16 copy to doctor --

17 MR. DAVIS: 1096.

18 MR. McELVEEN: Is it 1096? Doctor, let me
19 take that back and find document 1096.

20 MR. DAVIS: Is that what you are talking
21 about?

22 MR. McELVEEN: Right.

23 BY MR. McELVEEN:

24 Q. Let me hand that to you, Dr. Teague. Turn to
25 the -- Turn to the page numbered page 8 on that

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1 document, sir.

2 A. All right.

3 Q. You had -- Well, let me ask you this question.

4 Go down to the first full paragraph on page 8 --

5 A. Uh-huh.

6 Q. -- that indicates "A final psychological

7 factor," starts with that language.

8 A. Yes, sir. I'm with you.

9 Q. And the second sentence states "The
10 smoking-health controversy does not appear important
11 to the group because, psychologically, at eighteen
12 one is immortal." Do you see that sentence --

13 A. Yes, sir.

14 Q. -- from your memo?

15 A. Right.

16 Q. Do you recall why you used the age 18 there?

17 MR. O'FALLON: Objection, leading.

18 A. Well I -- I think this was talking about a youth
19 market that started at 18 and went to 21 or 25,
20 young-adult-type thing.

21 Q. All right, sir. To your knowledge -- Well, let
22 me ask the question this way.

23 What, if you know, happened to this research
24 planning memorandum once you wrote it?

25 A. Well, it's labeled "DRAFT" on the first page,

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1 which would suggest it didn't go anywhere. I think I
2 wrote it, like so many of these other things, as kind
3 of a think paper to myself and probably rested gently
4 in my files for lo these many years, but I don't
5 know.

6 Q. Let me ask you this question. The first
7 sentence of the memorandum indicates -- Let me follow
8 that up with questioning.

9 A. Okay.

10 Q. To your knowledge, did anybody else in
11 management see this, did anybody in management see
12 this document?

13 MR. O'FALLON: Objection, lack of
14 foundation.

15 A. I have no recollection that they did. I suppose
16 it's possible but I --

17 Q. Did anybody else in the research department, to
18 your knowledge, ever see this document?

19 MR. O'FALLON: Objection, lack of
20 foundation.

21 A. Not that I recall. Again, it's -- I suppose
22 it's possible.

23 Q. Let me ask one other question. You had
24 indicated that you had a particular format for
25 forwarding items on to your -- on to personnel in the

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1 department. What was that --

2 MR. O'FALLON: Objection, lack of
3 foundation.

4 Q. -- format?

5 MR. O'FALLON: Misstates the testimony.

6 Q. Well, let me -- I'm going to withdraw that
7 question, actually, and ask a slightly different
8 question.

9 There is a document in the exhibits here which
10 is entitled "RESEARCH PLANNING MEMORANDUM ON A NEW
11 TYPE OF CIGARETTE DELIVERY AND SATISFYING AMOUNT OF
12 NICOTINE WITH A REDUCED 'TAR'-TO-NICOTINE RATIO." Do
13 you remember discussing that document?

14 A. Yesterday, I believe, yeah.

15 Q. All right. And I believe at the time you
16 testified you indicated that to your recollection it
17 was a draft of that document. I'm going to hand
18 you --

19 A. Yes.

20 Q. I'm going to hand you --

21 MR. McELVEEN: I'm going to ask the
22 reporter to mark as an exhibit that we have
23 previously identified as a document for
24 identification our document next in order.

25 MR. O'FALLON: Excuse me, who had

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1 previously designated that document?

2 MR. McELVEEN: Mark Holton, I think.

3 (Discussion off the stenographic record.)

4 (Teague Deposition Exhibit A was
5 marked for identification.)

6 BY MR. McELVEEN:

7 Q. Dr. Teague, I've asked that a document be marked
8 as exhibit -- Teague Exhibit A. I'm going to hand
9 that to you, sir. I've already passed copies to
10 counsel for the plaintiffs. And I'm also going to
11 hand you a document which was previously marked and
12 discussed with you, Plaintiffs' Exhibit 1087, which
13 is a memorandum to Mr. Vassallo and to Mr. -- and to
14 Dr. Senkus. Take a look at that, if you would, and
15 indicate to me, if you know, whether the document I
16 have marked as Exhibit A is a draft of the document
17 that is Exhibit 1087.

18 A. Appears to be identical except for the cover
19 page on this one and the heading on this one.

20 Q. You indicated in your testimony yesterday that
21 -- that you recollect that there was a draft of
22 document 1087 which you had --

23 A. Uh-huh.

24 Q. -- in your records. To the best of your
25 recollection, is document A that draft?

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1 MR. O'FALLON: Objection, leading.

2 A. I believe so, uh-huh.

3 Q. Okay. When you wanted to send something to your
4 management in the research department or elsewhere,
5 what was your practice with respect to the addressing
6 of that --

7 MR. O'FALLON: Objection, leading.

8 Q. -- document?

9 A. Well, we have seen a lot of these research
10 planning memoranda, which I think I've testified
11 before were written basically to myself and were not
12 distributed. Apparently on this one, and there may
13 be others where I thought after mature consideration
14 that it might be useful that I would do just what I
15 did on these two, is put a heading, address it to
16 whomever I wanted to see it and send it out, I
17 guess.

18 Q. All right. To your recollection, was that the
19 practice throughout your career?

20 MR. O'FALLON: Objection, leading.

21 Q. Was that your -- Let me re-ask that question.

22 Was that your practice throughout your career?

23 MR. O'FALLON: Objection, leading.

24 A. Yeah, I think so. I wouldn't normally mail out
25 a -- anything without being addressed to -- or

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1 distributed or what -- without being addressed to
2 someone.

3 Q. All right, sir. Take a look again, if you
4 would, at the document entitled "RESEARCH PLANNING
5 MEMORANDUM ON SOME THOUGHTS ABOUT NEW BRANDS OF
6 CIGARETTES FOR THE YOUTH MARKET."

7 A. Okay. Necessary, okay.

8 Q. Why don't you set the other documents we have
9 been looking at over here in the other stack.

10 A. All of these?

11 Q. Yes, sir.

12 A. And these first two we just talked about?

13 Q. Just set them aside.

14 A. All right, sir.

15 Q. And just for the record purposes, would you
16 identify the exhibit number for the "RESEARCH
17 PLANNING MEMORANDUM ON SOME THOUGHTS ABOUT NEW BRANDS
18 OF CIGARETTES FOR THE YOUTH MARKET"?

19 A. Exhibit 1096.

20 Q. 1096?

21 A. Is that the number?

22 Q. Yes, sir, that's what I'm looking for.

23 Take a look at that document and tell me if it
24 has any addressees on it.

25 A. No, sir.

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1 Q. Okay. On the first page of that document, the
2 first sentence says, "At the outset it should be said
3 that we are presently, and I believe unfairly,
4 constrained from directly promoting cigarettes to the
5 youth market."

6 If you recall, can you tell me what constraints
7 you believed then were on the direct promotion of
8 cigarettes to the youth market?

9 A. I think the federal -- Federal Trade Commission
10 may have ruled or something or other that cigarette
11 advertising should not be addressed to the 18 and
12 above, the young people, and -- I think there was
13 something about a model and an ad should show
14 somebody, what, 25 or over, which is not very adult,
15 but whatever. But that's just -- I was not
16 knowledgeable on that stuff.

17 MR. O'FALLON: I'm going to object to that
18 answer as it misstates the facts.

19 Q. Dr. Teague, you have discussed with Mr. O'Fallon
20 periodically during your testimony, you mentioned on
21 at least a couple occasions some work that you did at
22 the University of North Carolina in the late 1960s as
23 being the genesis of some of your thinking on the
24 topic of nicotine in cigarettes and nicotine's role
25 in smoking. Would you describe for us, please, the

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1 -- what that program was and when you started it?

2 Just give us a little background.

3 A. Well, it was so-called -- I believe it was

4 called the "executive program." It was in the

5 graduate school of business at the University of

6 North Carolina over in Chapel Hill. It was -- I

7 think you had to be over 35 to be eligible. It

8 lasted roughly a year. As I recall, you went in for

9 a solid week of lectures and things and then

10 every-other weekend you went from I think Thursday

11 evening sessions on into the middle of the day

12 Saturday, and then about midway you went for another

13 week and then another final week at the end. And it

14 basically I think would sort of amount to a reading

15 knowledge MBA-type thing. We studied everything,

16 marketing, planning, behavioral science, finance,

17 accounting, labor law, constitutional law -- all of

18 those things about which I knew very little when I

19 got there.

20 Q. Uh-huh. And when was this? What time frame?

21 A. It started I -- It started sometime, I believe,

22 in '68 and ended I believe about April or May

23 in '69.

24 Q. And did you complete the program?

25 A. Yes, I did.

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1 Q. Uh-huh. Was there any type of thesis work or
2 report or paper that was due during the course of
3 that program?

4 A. I believe one of the -- one of the requirements
5 to graduate or whatever from the course was that you,
6 with a faculty member, mentor, you were to develop a
7 long-range plan for your business or some portion
8 thereof.

9 Q. Uh-huh. For your business, and "your business"
10 of course being the tobacco business, right, the
11 cigarette manufacturing business?

12 A. Right.

13 Q. Okay. And did you do such program or such a
14 paper?

15 A. Well, I -- I ran into trouble because I was --
16 was a research man and most everything in the tobacco
17 industry at that time was proprietary and it put me
18 in a quandary. So I think, by negotiating with my
19 mentor there and the people at Reynolds, we agreed I
20 would choose as a topic something that didn't bear on
21 any -- any of Reynolds' businesses as best we could,
22 and I think we chose kind of a smoking-health problem
23 as sort of set forth in the -- in the Surgeon
24 General's report of 1964.

25 Q. Okay.

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1 A. But I remember I was -- felt very careful not to
2 put any proprietary, what I thought was sensitive
3 information in this. It was purely to show that I
4 knew the steps and planning and so forth. That
5 seemed to be all right.

6 Q. Okay. And do you remember what the precise
7 topic of your paper was?

8 MR. O'FALLON: Objection. I think he
9 stated that.

10 A. I don't.

11 Q. Okay. Do you remember the name of your mentor
12 there?

13 A. Yes. His name was Dr. Bob Rehder, I believe.

14 Q. Okay.

15 A. I think that's -- been a long time.

16 Q. Subsequent to the completion of that work, did
17 you keep the paper or did you keep a copy of it?

18 A. I think again our understanding was I would give
19 it to him and he would read it and return it to me --
20 to me, and I kept, I believe, my original, which was
21 really a draft, was never put in perfect form.

22 Q. Okay.

23 A. I don't believe he kept it, or anybody did.

24 Q. Subsequent to that, the completion of that
25 course, did you engage in similar exercises, having

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1 returned to Reynolds, with regard to thinking that
2 way?

3 MR. O'FALLON: Objection, leading.

4 A. Yes, I did. I continued. I had a smattering of
5 marketing and finance and behavioral. Dr. Rehder was
6 a Ph.D. in behavioral science and I think that's
7 reflected throughout most of these things. Yes, I
8 did continue on with that. That really is the
9 genesis of these research planning memoranda.

10 Q. Okay. Let me show you an item which has
11 previously been discussed with you as Exhibit 1057,
12 entitled "RESEARCH PLANNING MEMORANDUM." I'm sorry,
13 I'm going to get you to read that in the record, if I
14 can, because I don't have a copy. Go ahead and keep
15 that, read it into the record. "RESEARCH PLANNING
16 MEMORANDUM ON THE NATURE OF THE TOBACCO BUSINESS AND
17 THE CRUCIAL ROLE OF NICOTINE THEREIN."

18 Now, you had discussed this memorandum with Mr.
19 O'Fallon earlier in your deposition. Is this a
20 research planning memorandum based in any way on your
21 work at the University of North Carolina?

22 A. I would think it would be based almost -- that
23 was the occasion. This was sort of a continuation of
24 that original draft thesis, if you will.

25 (Interruption by the reporter.)

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1 Q. Does the item which has been marked Plaintiffs'
2 Exhibit No. 1057 have any addressees on it?

3 A. No, sir.

4 Q. Okay. To your personal knowledge, was the item
5 which has been marked exhibit -- Plaintiffs' Exhibit
6 1057 seen by anybody in management of the R.J.
7 Reynolds Tobacco Company?

8 MR. O'FALLON: Objection, leading, lacks
9 foundation.

10 A. I don't remember that it went anywhere. I think
11 again it was one of my think papers that I wrote and
12 stuck -- apparently stuck in my file somewhere. I
13 can't say nobody ever saw it. If somebody wanted to
14 come in and talk about it I might have said, hey, you
15 want to look at this? But --

16 Q. Are these, the thoughts that are set forth in
17 Plaintiffs' Exhibit 1057, your own thoughts on the
18 subject?

19 MR. O'FALLON: Objection, leading.

20 A. Well, that's hard to say. A lot of these -- A
21 lot of this, as I recall from looking at it a little
22 bit yesterday, kind of reflects the general state of
23 thinking at that time. Some of it may have come out
24 of the Surgeon General's report, some of it may have
25 been, who knows, popular press or whatever, but I --

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1 again, if I write something to somebody else I try
2 not to plagiarize and I would normally footnote
3 somebody else's thing, but since I was writing it to
4 myself I didn't feel any need so -- so I think it's a
5 mixture, really.

6 Q. To your knowledge, are the thoughts that -- that
7 you expressed in this paper here to yourself, were
8 they company policy to your knowledge?

9 MR. O'FALLON: Objection, leading.

10 A. I don't think so. In fact, I was trying to stay
11 away from company policy pretty much still.

12 Q. Did the thoughts that you --

13 Did this paper, to your knowledge, this research
14 planning memorandum, get shared with the board of
15 directors or top management at R.J. Reynolds Tobacco
16 Company?

17 MR. O'FALLON: Objection, leading and lacks
18 foundation.

19 A. Certainly not to my knowledge.

20 Q. Okay.

21 A. Or recollection.

22 Q. Did you do that research planning memorandum at
23 the request of any supervisors of yours, to your
24 recollection?

25 A. No.

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C O N F I D E N T I A L

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1 MR. McELVEEN: Can we go off the record for
2 a couple seconds?

3 (Recess taken from 2:02 to 2:08 p.m.)

4 MR. McELVEEN: Thank you, Dr. Teague. I
5 have no further questions of you, sir.

6 THE REPORTER: We're still on the record.

7 MR. O'FALLON: Why don't we go off the
8 record a half second, get organized here.

9 (Recess taken from 2:10 to 2:11 p.m.)

10 ADVERSE EXAMINATION

11 BY MR. O'FALLON:

12 Q. Dr. Teague, we have talked a bit about the
13 University of North Carolina program that you
14 attended. Did you attend that with the blessing of
15 R.J. Reynolds?

16 A. Certainly.

17 Q. Did they pay for it?

18 A. Certainly.

19 Q. So in other words, they sent you to a year's
20 worth of education to basically get the equivalent of
21 an MBA; correct?

22 A. Well, I wouldn't say -- it was maybe a reading
23 knowledge of stuff. I couldn't put together an
24 accounting or something.

25 Q. I thought you testified when R.J. Reynolds'

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1 counsel was asking you questions that this one year
2 that you spent at the University of North Carolina
3 getting this training was basically the equivalent of
4 an MBA.

5 A. I think you misunderstood or I misstated. It
6 certainly was not an MBA program.

7 Q. It wasn't an MBA program but it was the
8 equivalent of an MBA program?

9 A. I don't think so, no.

10 Q. So if you stated that previously that would be
11 untrue testimony; correct?

12 MR. DAVIS: Objection.

13 MR. McELVEEN: Objection.

14 A. I misspoke if I said it.

15 Q. Now the reason R.J. Reynolds sent you to this
16 program was so you could gain these management-type
17 skills, including the ability to plan and conduct
18 long-range planning so you could then come back and
19 implement those skills at R.J. Reynolds; correct?

20 A. No, it was because I asked to go and the guy,
21 the vice president that sent me was leaving and this
22 was a farewell present to me, he told me.

23 Q. In any event, they sent you to this program and
24 they subsequently -- you subsequently used the
25 talents you learned there, including this long-range

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1 planning, at R.J. Reynolds; correct?

2 A. I used some of the things I used there and
3 probably some of them I misused. As I told them when
4 I left, I was confused at the higher level.

5 Q. That's why we looked at your resume before, the
6 Plaintiffs' Exhibit 1097, which is your own
7 description of what you did, and specifically what
8 you did between 1970 and 1975 when you wrote these
9 planning memos we have been talking about.

10 A. Uh-huh.

11 Q. You had a specific responsibility for special
12 assignments in the area of long-range planning;
13 correct?

14 A. All right. Now I remember what they were, but
15 go ahead.

16 Q. And these long-range planning documents we have
17 been talking about, they were written by you on
18 company time; correct?

19 A. I would guess largely. I may have written some
20 at home, but basically I would think they were
21 written at work.

22 Q. Using a company secretary to type them up?

23 A. I believe so.

24 Q. And they are dated by you; correct?

25 A. They are what?

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1 Q. These documents have been dated by you. You put
2 a date on them; correct?

3 A. The typist, uh-huh, did.

4 Q. And they have been signed by you; correct?

5 A. Well, you know, are you talking about strictly
6 my research plan or whatever the --

7 Q. There is numerous. For instance 1096, the youth
8 document, that's signed by you and dated by you;
9 correct?

10 A. Yes, and I was saying -- I was wondering if we
11 were talking about this series, research planning
12 memorandum.

13 Q. Some of them, yes. And that's a document that
14 was signed by you; correct?

15 A. Sure, sure.

16 Q. Dated by you; correct?

17 A. Sure.

18 Q. Stamped confidential by you; correct?

19 A. I didn't do any stamping, I don't think.

20 Q. Well so someone else stamped this document as
21 confidential, then?

22 A. I guess my secretary did.

23 Q. Is that who usually stamps documents
24 confidential?

25 A. I guess. I don't think I had a stamp in my

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1 desk.

2 Q. Well, was that the practice and procedure, that
3 a secretary was the person who decided whether a
4 document was confidential or not?

5 A. I didn't say that at all. I said she wielded
6 the stamp.

7 Q. But you would have told her to do it; right?

8 A. I think I would have, yes, or if it was in this
9 sequence she, you know, she's pretty smart people.

10 Q. And it's your testimony that you sign, date and
11 stamp as confidential documents that you testified
12 here you are simply going to throw in a desk drawer
13 and no one's going to see them; correct?

14 A. I think that's basically true, although there
15 are some that did circulate, as we just talked about.

16 Q. And again these planning memorandum that we have
17 been talking about, these were documents that were
18 part of your ongoing responsibilities for planning in
19 the research department; correct?

20 A. No.

21 Q. Those were your ongoing responsibilities;
22 correct?

23 A. These? No.

24 Q. And these were statements made by you; correct?

25 A. I wrote these. We went through all this in my

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1 own 10 percent of my time to do what I wanted to do.

2 Q. Again you can't produce for me any copy of any
3 policy that talks about this alleged 10 percent of
4 your time now, can you, sir?

5 A. I can't produce any documents. I left all my
6 documents at Reynolds when I left, I think, except a
7 few somewhat personal things that somebody asked for
8 we generated lately. But back to your thing, I
9 thought about that specific -- May I see that one a
10 minute on the internal resume?

11 Q. I don't have any question pending, sir.

12 MR. McELVEEN: There is no question
13 pending, Dr. Teague.

14 THE WITNESS: I just wanted to know if he
15 wanted to know, but I guess he doesn't.

16 Q. Dr. Teague, you have also testified here today
17 that Teague Exhibit A is a draft of deposition
18 Exhibit 1087; correct?

19 A. That's my belief, recollection.

20 Q. Do you want to show me where the word "draft"
21 appears anywhere on Teague Exhibit A?

22 A. I don't think it does but that doesn't mean it's
23 not a draft. It doesn't -- All of these research
24 planning memoranda are not stamped or labeled as
25 draft. Some are, some aren't. I couldn't tell you

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1 what the difference was.

2 Q. Well presumably the difference is that the ones
3 labeled drafts may be in fact drafts, whereas the
4 ones not labeled draft are not drafts. Wouldn't that
5 be the logical conclusion to make?

6 MR. McELVEEN: Objection.

7 MR. DAVIS: Objection.

8 A. That would be illogical.

9 Q. Using your Boolean logic we talked about
10 earlier?

11 A. No. This is much simpler than that.

12 Q. Doctor, your draft and your final, they carry
13 two different titles; correct?

14 A. I believe that's true, yes, sir.

15 Q. And they have the exact same date, don't they?

16 A. Well, let's see if they do. I would expect they
17 would but -- That's right.

18 Q. So you were able to do a draft document and a
19 final document on the same day?

20 A. Well, all I had to do was change the title page.

21 Q. And it's your usual practice to label documents
22 done the same day with different titles?

23 A. I think this was an unusual situation. Very few
24 of these research planning memoranda were ever
25 addressed, as I think we have talked and talked

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1 about. They were things I wrote for my own
2 edification and filed away. This I guess at the time
3 I thought was a pretty good idea and I put it in
4 somebody else's hands.

5 Q. You can't testify, can you, there were no
6 circulation lists or other memo that attached to
7 these planning memos to them. You can't testify to
8 that, can you?

9 A. You mean similar to this pair?

10 Q. Yeah. You now, just like we had two documents
11 here, Deposition Exhibit 1093 and deposition 10 --
12 Deposition 1094, RJR produced one without the cover
13 page and one with the cover page, so it's entirely
14 possible RJR has somewhere in its files a cover page
15 for these planning memorandum; correct?

16 MR. DAVIS: Objection.

17 A. If they did I'd be surprised.

18 Q. You can't testify that they don't, can you?

19 A. I can't testify that they do or don't. I just
20 said I'd be surprised but I don't know.

21 Q. Let's go back to the youth document. Do we have
22 that one here?

23 A. Okay.

24 Q. Let's go to page 10, Bates stamp numbered
25 502987367.

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1 A. Page "10" like the numbers at the top?

2 Q. Ten at the top, yes, sir. I gave you both
3 numbers so you ought to be able to get there with
4 those, but if you can't you let me know and I'll help
5 you out.

6 A. I've got it. Yup. Okay.

7 Q. Let's go down to the third paragraph. Are you
8 there?

9 A. I think so.

10 Q. You state there that "A careful study of current
11 youth jargon, together with the review of currently
12 used high school American history books and like
13 sources for valued things might be a good start at
14 finding a good brand name and image theme"; correct?

15 A. That's what this says.

16 Q. Now the majority of people in high school are
17 under the age of 18, aren't they?

18 A. I think most of the seniors are 18, aren't
19 they?

20 Q. But there is more than just seniors in high
21 school, aren't there, sir?

22 A. I would think so.

23 Q. There is at least three other classes in most
24 high schools, aren't there, sir?

25 A. Many, yes.

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1 Q. Yeah. So the majority of the people in high
2 school are under the age of 18, aren't they?

3 A. Well, it's hard to say. I would assume there
4 probably are, but there are a lot of people who
5 didn't make it out, you know, didn't -- got retained
6 and might be somewhat older than 18 and in the eighth
7 grade. I don't know.

8 Q. Do you think so?

9 A. I think it's possible.

10 Q. Do you think in 1970 there were a lot of people
11 in the eighth grade who were 18 years old, sir?

12 A. I didn't say a lot, I said there were some. If
13 I didn't, I meant to say that. We had social
14 promotions, still do, where they move you along now,
15 but in those days I think they held people back until
16 they could read and write.

17 Q. "Those days," do you mean like the 1970s?

18 That's when this document was written; right?

19 A. I guess it was. I forgot.

20 Q. I'm not talking --

21 A. Yeah, '73.

22 Q. I understand that things were a bit different
23 when you were in high school back in the '30s
24 and '40s.

25 A. I guess I was reflecting that year, then,

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1 probably.

2 Q. By the 1970s when I was in high school, the vast
3 majority of the people in high school were under the
4 age of 18; correct?

5 A. Is that a question?

6 Q. That's a true statement, isn't it, sir?

7 A. You made a statement; I can't testify to its
8 truth.

9 Q. Would you like to testify that the majority of
10 people in high school are not under the age of 18?

11 A. No.

12 Q. The vast majority of people in high school are
13 under the age of 18; correct?

14 A. In general I think that's probably true.

15 Q. And presumably a man with a Ph.D. and the
16 equivalent of an MBA would understand that when he
17 reads -- when he writes a memo referring to high
18 school history books; correct?

19 MR. McELVEEN: Objection, I think that
20 misstates his prior testimony.

21 A. I don't know. I don't remember my thought
22 processes at that time.

23 Q. And if you don't remember them there is no one
24 who will; correct, sir?

25 Now, this thesis you did at the University of

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1 North Carolina, it involved smoking and health;
2 correct?

3 A. I believe so.

4 Q. And that would be the various allegations that
5 smoking caused cancer; correct?

6 A. Sir, I haven't read that document in any --
7 flipped through, scanned it, but I don't think I've
8 sat down and read it probably since it was written or
9 soon thereafter, so I can't tell you what's in it or
10 what isn't in it.

11 Q. You were able to talk about this subject matter
12 when you were being asked questions by R.J. Reynolds'
13 attorneys so why don't you tell me what you recall
14 about what that smoking-and-health topic meant to
15 you.

16 MR. DAVIS: Objection.

17 A. What do you want to know about it?

18 Q. Well, did it include looking at whether or not
19 smoking caused lung cancer?

20 A. I don't believe so. I'd be surprised if it did
21 but I -- like I say, I haven't seen the thing in
22 years. I haven't read it in years, certainly.

23 Q. Well, what health problems do you think you were
24 concerned about when you were using this as a topic
25 for a thesis in a class that was paid for by R.J.

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1 Reynolds back in 1968 and 1969?

2 A. Well --

3 MR. DAVIS: Objection.

4 THE WITNESS: Excuse me.

5 MR. DAVIS: Go ahead.

6 A. My mentor or faculty advisor was -- had a Ph.D.

7 in behavioral science and I think I basically said,

8 well, doesn't matter whether these health allegations

9 are correct or not, if people believe they are

10 correct and act on them then it obviously influences

11 their behavior. I don't think I ever said -- I'd be

12 surprised, I'd put it that way -- that cigarettes

13 cause cancer or don't cause cancer.

14 Q. In the course of that research, did you ever

15 bother to find out what R.J. Reynolds' official

16 position on the smoking-and-health question was?

17 A. This was selected, as I believe we went into, to

18 stay away from anything that was Reynolds'

19 proprietary thinking or company business. This was

20 kind of a blue-sky paper that was written to show the

21 -- that I, presumably, understood some of the

22 elements of planning. And the other purpose,

23 obviously, was to get me to graduate from the course.

24 Q. And also to do something that was somewhat

25 useful to your business; right?

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1 A. No, I don't think that entered into my -- I told
2 you why I did it and when.

3 Q. Or at least to give you a topic that you had
4 some knowledge about; correct? And you did have
5 knowledge about smoking and health.

6 MR. DAVIS: Objection.

7 A. Are you testifying to that? Are you asking
8 me --

9 Q. Is that an untrue statement?

10 A. Was that a question?

11 Q. Was that an untrue statement, sir?

12 MR. McELVEEN: Objection.

13 A. It's an awfully broad statement, I think.

14 Q. Well, for instance in 1953 you wrote a document
15 summarizing the research linking cigarette smoking to
16 cancer, so you had some knowledge of the
17 smoking-and-health controversy; correct?

18 A. Some knowledge, right.

19 Q. And again it wasn't really a controversy in
20 anybody's mind but the cigarette industry's; right?

21 MR. McELVEEN: Objection.

22 MR. DAVIS: Objection.

23 A. Is that your testimony? It's not mine.

24 Q. You don't know?

25 A. I don't know.

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1 Q. Is it your testimony that the cigarette industry
2 has admitted that there is a causal link between
3 cigarette smoking and lung cancer?

4 A. I don't know.

5 MR. McELVEEN: Let me object, let me
6 object. I think this is beyond the scope of the
7 direct.

8 Q. None of these -- this work you did at the
9 University of North Carolina study involved nicotine,
10 did it?

11 A. Writing about nicotine?

12 Q. You didn't use nicotine as your topic in that
13 smoking-and-health subject, did you?

14 A. I think nicotine was a -- a major part in this
15 thing. It was -- Nicotine had been, and I understand
16 it's been a long time, nicotine had been given a
17 pretty clean bill of health by the Surgeon General's
18 report of 1964 and it had questioned the -- whatever,
19 of particularly the tar phase. So I think my sort of
20 thesis was if nicotine is a good guy and is blessed,
21 then I guess it still is today because you can buy it
22 over the counter at a drugstore, that my thesis was,
23 well, let's accentuate the positive and try to reduce
24 the negatives or the alleged negatives, whatever,
25 whatever people believe.

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1 Q. You understand that nicotine is sold over the
2 counter today in order to help break -- people to
3 break the addiction to cigarettes; correct?

4 MR. DAVIS: Objection.

5 A. I don't know. I use it as a drug.

6 Q. Oh, really?

7 A. Yes.

8 Q. Now, the fact of the matter was that much of
9 your knowledge of nicotine came from the research
10 R.J. Reynolds did on the topic; correct?

11 A. What kind of knowledge and what kind of research
12 are you talking about?

13 Q. Specifically your conclusions that nicotine was
14 the prime ingredient and the prime reason people
15 smoked. That was based on research R.J. Reynolds did
16 that you directed; correct?

17 MR. McELVEEN: Objection, I think that
18 mischaracterizes his prior testimony.

19 A. That was based on I think the Surgeon General's
20 report of 1964.

21 Q. Well why don't we take a look real quickly at a
22 document I'm going to have marked as the next
23 exhibit.

24 (Plaintiffs' Deposition Exhibit 1100 was
25 marked for identification.)

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1 BY MR. O'FALLON:

2 Q. I've marked as Plaintiffs' Exhibit 1100 a
3 document Bates stamp numbered 50107900 through 9001.

4 Do you recognize that document?

5 A. I don't remember --

6 Q. You were present at this --

7 A. -- having ever seen it, but I apparently was
8 present when a meeting occurred.

9 Q. And the cigarette substitute concept, it says,
10 "A meeting was held June 4, 1970, to discuss the
11 results of MRD's 'Cigarette Substitute Concept Study'
12 (published May 20, 1970)"; correct?

13 A. That's -- That's the first part of the first
14 sentence, yes, sir.

15 Q. Well I'll read the rest: "and to determine the
16 next course of action on this project." Correct?

17 A. You've read it correctly.

18 Q. And that study is a document we have previously
19 marked as Plaintiffs' Exhibit 1091; correct?

20 MR. McELVEEN: Could you show the witness
21 the document, or let him get it?

22 A. This one?

23 Without reading them both, I would assume they
24 are related, sir.

25 Q. Well it refers to a marketing research

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1 development study entitled "CIGARETTE 'SUBSTITUTE'
2 CONCEPT STUDY." That's in fact entitled the
3 "CIGARETTE 'SUBSTITUTE' CONCEPT STUDY," is it not,
4 sir?

5 A. Uh-huh.

6 Q. And it is in fact dated?

7 A. Okay.

8 Q. May 20 of 1970, isn't it, sir?

9 A. Okay. That ties them together.

10 Q. And that's a document that was specifically
11 written to you; correct, sir?

12 A. For whatever reason, yes.

13 Q. Presumably it was for the purpose of conducting
14 this study; correct?

15 MR. DAVIS: Objection.

16 A. You just said "presumably." I don't know.

17 Q. Do you want to contradict that?

18 A. You said it, I didn't. You know --

19 Q. And again, what this study indicated --

20 Let's go back and look now at the meeting you
21 had about it and the document that reflects that
22 meeting, which we have now marked as Plaintiffs'
23 Exhibit 1100, and let's look at the second full
24 paragraph. Under the list of names, including yours,
25 it says, quote --

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1 A. Could I read it right quick, scan it? I don't
2 recall ever seeing it. I assume -- I wasn't even on
3 the distribution.

4 Q. Sir, you are mentioned in it, aren't you?

5 A. Yeah, but I don't recall reading -- I don't
6 think I've ever seen this document.

7 Q. Well I'm going to ask you about the statements
8 and you can tell me whether they are true or not;
9 okay, sir?

10 MR. DAVIS: Go ahead and read it, doctor.

11 THE WITNESS: May I read it?

12 MR. O'FALLON: You go ahead and read it.

13 You take your time and read that document since you
14 don't know anything about it.

15 THE WITNESS: Well I don't think I've seen
16 it. There is nothing here that would indicate I
17 had.

18 MR. McELVEEN: Do you want to go off the
19 record?

20 MR. O'FALLON: Read the document, sir.

21 MR. McELVEEN: Or do you want to stay on
22 the record while he reads it?

23 MR. O'FALLON: Yeah, we'll stay on the
24 record.

25 MR. McELVEEN: Okay. Go ahead and read it,

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1 Dr. Teague.

2 A. Okay, I've scanned it.

3 Q. The second paragraph on the first page states
4 that "while the MRD study indicated that most
5 consumers have fairly negative attitudes about
6 nicotine, it was concluded that this ingredient is
7 nonetheless essential to the success of a substitute
8 product"; correct?

9 A. That's what it says.

10 Q. "This conclusion was reached because the survey
11 showed that the prime conscious satisfaction smoking
12 provides are relaxation and relief from tension and
13 worry; nicotine is apparently the only feasible
14 chemical provider of such satisfaction"; correct?

15 A. That's what it says.

16 Q. So the notions that you set forth in your
17 memorandum about nicotine being the sine qua non of
18 cigarette smoking and about nicotine being the reason
19 people smoked, that's not some blue-sky notion you
20 got from the University of North Carolina. That's a
21 -- that's a determination that was made based upon
22 R.J. Reynolds' consumer research; correct?

23 MR. DAVIS: Objection, objection.

24 MR. McELVEEN: Objection, that misstates
25 the prior testimony.

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1 A. I don't think so. I think that's -- nicotine
2 being the sine qua non may very well be in that
3 Surgeon General's report, and I couldn't cite you a
4 reference, but I think it was in the public domain
5 literature in the -- in the -- those days, and I
6 think I've also said I'm really not sure that's
7 true.

8 Q. And by June 5th of 1970, R.J. Reynolds had
9 independently confirmed that fact that nicotine is
10 the reason people smoke through consumer research
11 that it had undertaken; correct?

12 MR. McELVEEN: Objection, I think that
13 calls for a conclusion on the part of the witness.

14 A. I have a hard time concluding that from this.

15 MR. O'FALLON: I have no further
16 questions.

17 MR. McELVEEN: Can we go off the record a
18 second?

19 THE REPORTER: Off the record.

20 (Recess taken from 2:37 to 2:38.)

21 MR. McELVEEN: Can we go off the record
22 just a second, please, if you don't mind.

23 (Deposition adjourned at approximately
24 2:37 o'clock p.m.)

25

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1 C E R T I F I C A T E

2 I, David A. Campeau, hereby certify that I
3 am qualified as a verbatim shorthand reporter; that I
4 took in stenographic shorthand the foregoing
5 deposition of CLAUDE E. TEAGUE, JR. at the time and
6 place aforesaid; that the foregoing transcript
7 consisting of pages 404-479 is a true and correct,
8 full and complete transcription of said shorthand
9 notes, to the best of my ability; that the noticing
10 party has been charged for the original transcript,
11 and that ordering parties have been charged the same
12 rate for such copies of the transcript.

13 Dated at Lino Lakes, Minnesota, this 12th
14 day of July, 1997.

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1 SIGNATURE PAGE

2 I, CLAUDE E. TEAGUE, JR., the deponent,
3 hereby certify that I have read the foregoing
4 transcript consisting of pages 404-479, and that said
5 transcript is a true and correct, full and complete
6 transcription of my deposition, except per the
7 attached corrections, if any.

8

9 (Please check one.)

10

11 _____ Yes, changes were made per the attached
12 (no.) _____ pages.

13

14 _____ No changes were made.

15

16

17

18 CLAUDE E. TEAGUE, JR.

19

20 Sworn and subscribed to before me this day
21 of , 199___.
22

23

24 Notary Public

25 My Commission expires: (DAC)

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